

Honorable Richard A. Jones

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TIMOTHY S. VERNOR, an individual,

Plaintiff,

v.

AUTODESK, INC., a Delaware  
corporation,

Defendant.

No. 2:07-cv-01189-RAJ

JOINT STATEMENT, STIPULATION  
AND ORDER FOR ENTRY OF  
JUDGMENT

**JOINT STATEMENT AND STIPULATION**

Plaintiff Timothy S. Vernor ("Vernor") and Defendant Autodesk, Inc. ("Autodesk"),  
by and through their attorneys of record, jointly file this statement and stipulation.

On March 16, 2011, this Court ordered the parties to file a joint statement setting forth the manner in which they wish to proceed in this case. On March 31, 2011, counsel for Vernor filed a Joint Statement on behalf of the parties informing the Court that Vernor intended to petition the Supreme Court for certiorari to review the Ninth Circuit's decision. The parties requested that the Court hold the case in abeyance while the case was pending in the Supreme Court and stated that the parties would file a further joint statement setting forth how they wished to proceed within 30 days of the Supreme Court's denial of the petition for certiorari or final disposition of the case.

1           The petition for writ of certiorari was denied on October 3, 2011. On October 25,  
2 2011, this Court ordered Vernor to file a statement by November 4, 2011, explaining  
3 whether he wishes to pursue the remainder of the case. The parties file this Joint Statement  
4 and Stipulation in response to the Court's order and to address the remaining issues in this  
5 case.

6           In the Opinion of the United States Court of Appeals for the Ninth Circuit filed on  
7 September 10, 2010 in No. 09-35969 ("Opinion"), the Ninth Circuit vacated this Court's  
8 grant of summary judgment in Vernor's favor on Vernor's First Claim for Relief and  
9 remanded the case. The Ninth Circuit held "that because CTA is a licensee, not an owner,  
10 the 'sale' of its Release 14 copies to Vernor did not convey ownership. Vernor is  
11 accordingly not entitled to invoke the first sale doctrine or the essential step defense, on  
12 behalf of his customers." Opinion at 13887. The case was remanded for further  
13 proceedings consistent with the Opinion, including consideration of Vernor's copyright  
14 misuse defense.

15           In light of the Ninth Circuit's decision and the Supreme Court's denial of certiorari,  
16 Vernor no longer wishes to pursue his First Claim for Relief. The parties previously  
17 reached an agreement and filed a Stipulation for dismissal with prejudice of Vernor's  
18 Second Claim for Relief captioned "Unfair And Deceptive Practices." The parties hereby  
19 stipulate and agree that judgment should be entered in favor of Autodesk as to the  
20 remaining First Claim for Relief, including, without limitation, Vernor's copyright misuse  
21 defense, thus disposing of this case in its entirety.

22       Respectfully submitted,

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**ORDER**

PURSUANT TO STIPULATION, IT IS ORDERED THAT JUDGMENT BE ENTERED IN FAVOR OF AUTODESK AND AGAINST TIMOTHY S. VERNOR AS TO THE REMAINING FIRST CLAIM FOR RELIEF IN THE ABOVE-CAPTIONED MATTER, INCLUDING, WITHOUT LIMITATION, VERNOR'S COPYRIGHT MISUSE DEFENSE, THUS DISPOSING OF THIS CASE IN ITS ENTIRETY.

IT IS SO ORDERED.

Dated: November 7, 2011

A handwritten signature in black ink, reading "Richard A. Jones", is positioned above a horizontal line.

The Honorable Richard A. Jones  
United States District Court Judge